

must define an invention that is merely an obvious variation of an invention claimed in the prior art patent, and the claimed subject matter must not be patentably distinct from the subject matter claimed in a commonly owned patent. Also, the patent principally underlying the double patenting rejection is not considered prior art.

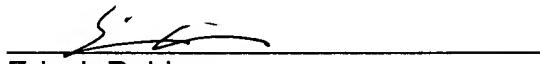
The Applicant respectfully traverses the obviousness-type double patenting rejection. The claims of Koyama '184 fail to disclose at least a portable telephone including a main body, an audio input portion, an audio output portion and a display device; a camera including a main body, an image receiving portion and a display device; a mobile computer including a main body, an operation switch and a display device; or a portable information terminal including a main body and a display device.

The Official Action asserts that the invention is directed to a display device and what the display device comprises, not a portable telephone, a camera, a mobile computer, or a portable information terminal. The Official Action further asserts that the Applicant is suggesting intended uses of the display device. In response, it is noted that the above discussed features of the portable telephone, camera, mobile computer or portable information terminal are positively recited features of the claims. Thus, these features are not merely intended use, but rather recite further aspects of the invention disclosed in the subject application. The claims define the invention and the claims positively recite these elements. Thus, it is not proper to limit the invention of the subject application to the display device itself in an attempt to find that the claims merely recite an intended use. The claims of the subject application appear narrower than those of the Koyama '184 patent in that they recite additional elements that are not recited in the claims of Koyama '184. There has been an insufficient showing that one of skill in the art would have found these additional limitations recited in the claims of the subject application obvious from the teachings of the claims of Koyama '184 alone and absent such a *prima facie* case, the obviousness-type double patenting rejection should not be maintained.

The Official Action further asserts that it is inherent that a portable telephone comprises a main body, an audio input portion, and an audio output portion. However, even assuming such features are inherent in a portable telephone, it should be noted that the claims of Koyama '184 fail to disclose a portable telephone itself. Therefore, even if such features were in fact inherent, the fact remains that the claims of Koyama '184 does not, alone, suggest the use of a portable telephone. Therefore the obviousness-type double patenting rejection should not be maintained for this further reason.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

  
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